United Nations S/AC.44/2004/(02)/64

Security Council

Distr.: General
6 December 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 2 November 2004 from the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Slovakia to the United Nations has the honour to submit to the Chairman of the Committee the national report of Slovakia (see annex).

04-63926 (E) 311204

Annex to the note verbale dated 2 November 2004 from the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Committee

Slovakia

A report pursuant to operative paragraph 4 of Security Council resolution 1540 (2004)

Scope of the report of Slovakia on implementation of UNSC resolution 1540 (2004)

The adoption of UNSC resolution 1540 (2004) has provided for an important tool in coping with the challenge of proliferation of weapons of mass destruction and, more importantly, preventing their falling into the hands of and proliferation by non-state actors which represent one of the most pressing issues of international peace and security today.

Slovakia has welcomed the unanimous adoption of the resolution with unequivocal support in expression of our long-standing policy against proliferation of WMD and their means of delivery. In practical terms, this policy has continuously been translated into a wide range of legislative, executive and enforcement measures before as well as after April 2004.

The Slovak authorities are firmly committed to implementing UNSC resolution 1540 (2004) and ready to lend their full co-operation to the 1540 Committee.

Legislative measures

Slovakia has introduced into domestic legislation a wide range of measures designed to prevent the proliferation of WMD, including their proliferation by non-state actors. Centremost to the relevant legislative toolbox are Act 26/2002 laying down the conditions for control of imports, exports and brokering activities relating to goods and technologies subject to international control regimes, Act 179/1998 on trading in military materials, Act 129/1998 on the prohibition of chemical weapons and Act 130/1998 on peaceful uses of nuclear energy (so called "Atomic Act").

The legislative measures as they relate to the specific provisions of UNSC resolution 1540 (2004) are given in more detail below.

Executive measures

At the executive level, the implementation of non-proliferation measures cuts across the province of a number of departments such as the Ministry of Economy, the Ministry of Health, the Ministry of Defence, the Ministry of Foreign Affairs and the Nuclear Regulatory Authority. Co-ordination among the departments is ensured by definition of their mandate in the relevant legislation. The Ministry of Foreign Affairs is responsible for the monitoring of the implementation of UNSC resolution 1540 (2004) and preparation of the national report submitted to the 1540 Committee.

In the spirit of the conclusions reached at the Fifth Review Conference of States Parties to the Biological and Toxin Weapons Convention, concrete steps have been undertaken to establish in the

foreseeable future a national implementation office for the convention. The Ministry of Health is envisaged to assume this capacity and to initiate the preparation of relevant legislative measures.

Enforcement measures

Action at the level of enforcement falls primarily within the purview of the Ministry of Economy, the Nuclear Regulatory Authority and the Customs Directorate. While the Ministry of Economy performs control of trade with sensitive goods and functions as national implementation office for the Chemical Weapons Convention, the Nuclear Regulatory Authority (UJD) oversees any movement of nuclear and related items involving Slovakia territory or subject. The Customs Directorate, with its customs crime combat unit (CKU), is responsible for practical enforcement of the principles related to export or transit of controlled goods.

The above departments have at their disposal intelligence provided by the Slovak Intelligence Service and military intelligence services. When necessary, expertise of scientific and technical institutions is called in e.g. by means of arrangement concluded between the Customs Directorate and the Military Technical and Experimental Institute. The Ministry of Foreign Affairs holds veto powers on export control regime and its negative opinion is binding on the Ministry of Economy and ultimately results in turning down of export licence application.

Measures in support of encouraging compliance

Encouraging compliance represents a large portion of governmental outreach activities to industry. The main thrust of the activities is gradually being expanded beyond the basic forms of interaction so far available between the relevant departments and exporters (e.g. in-office-hours consultations) to measures seeking a more action-oriented approach on the part of state agencies.

At present, for instance, joint preparations by the Ministry of Economy and the Slovak Chamber of Commerce for launching of the Internal Control Program (ICP) are underway. Within the ICP framework, publications and computer programs will be prepared so as to assist exporters in getting acquainted with Slovakia and EU dual-use related legislation, important area-related documents and samples on their completion.

Where feasible, steps are observed to promote compliance outreach on a more formal basis. The MOU concluded between the customs and police authorities and the representatives of chemical and pharmaceutical industry is a good example.

Activities in the European Union

After joining the European Union (EU), Slovakia has worked to actively contribute to Union's activities against proliferation of WMD and their means of delivery and to the implementation of a major project in this field, the EU Strategy for preventing the proliferation of WMD adopted by the European Council in December 2003.

As Slovakia is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Committee separately. This EU report covers areas of EU and Community powers and activities in relation to UNSC resolution 1540 (2004) and should be read in conjunction with this national report.

Commitment to international instruments

Slovakia is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Comprehensive Nuclear-Test-Ban Treaty (CTBT), the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BWC).

Slovakia has completed the necessary procedures with respect to the coming into force of the Agreement between Belgium, Denmark, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, the European Atomic Energy Agency (EURATOM) and the International Atomic Energy Agency (IAEA) in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and with respect to the relevant Additional Protocol.

Slovakia is also a member of nearly all of the export control regimes: the Australia Group (AG), the Wassenaar Arrangement (WA), the Nuclear Suppliers Group (NSG) and Zangger Committee, and is actively seeking membership in the Missile Technology Control Regime (MTCR) whose guidelines we undertook to apply on a voluntary basis. In addition, we are a subscriber to the Hague Code of Conduct against the Proliferation of Ballistic Missiles (HCOC). These non-proliferation structures make an important contribution in the field of export control of WMD-usable materials and technologies as well as to rising standards of non-proliferation behaviour and vigilance of participating states. Most of the export control regimes introduced in their guidelines specific provisions ("terrorism clauses") to deny terrorists access to the items controlled.

Slovakia has joined a wider group of partner states that support the Proliferation Security Initiative (PSI) and its stated principles. The PSI, building on consistence with national legal authorities and international legal frameworks, provides for a new qualitative input to active prevention of WMD and related material trafficking by both state and non-state actors.

Slovakia joins in encouraging all states to align themselves with the purposes and instruments of these groupings.

Assistance to other States

Slovakia recognizes the view of the UNSC that some States may require assistance in implementing the provisions of resolution 1540 (2004) and is fully aware of the invitation to States in a position to do so to offer assistance. We are prepared to consider any specific request form States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of the resolution and what experience and resources we can offer.

Slovakia, within her capacities, has adopted an active stance on the issue of international assistance in the field of non-proliferation. The main bulk of our assistance activities and resources have been provided mostly through the relevant international institutions such as the IAEA and the OPCW.

Observations in relation to the implementation of specific issues outlined in UNSC resolution 1540 (2004)

OP1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, posses, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

- Slovakia does not provide any form of support specified in operative paragraph 1 to non-State actors. Providing of such support is categorically prohibited under national law.

OP2

Decides that all Sates, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-Sate actor to manufacture, acquire, posses, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as accomplice, assist or finance them;

- Act 26/2002 laying down the conditions for control of imports, exports and brokering activities relating to goods and technologies subject to international control regimes. Introduces penalties for violation or breach of rules for trading with sensitive goods.
- Act 179/1998 on trading in military materials. Introduces penalties for violation or breach of rules for trading with military material.
- Act 129/1998 on the prohibition of chemical weapons. Prohibits any manufacturing, development, possession or trading with chemical weapons. Introduces rules for handling related sensitive substances and materials.
- Act 130/1998 on peaceful uses of nuclear Energy ("Atomic Act").
- Legislative steps underway for establishing a national BWC implementation office.
- Planned preparation of a new act amending and streamlining Act 26/2002 so as it does not duplicate EU legislation.

OP3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

- Maintaining a system of issuing official permits in order to monitor any movement of dangerous chemicals usable for the production of chemical weapons.

- Application of Act 179/2002 on trading with military material and Act 455/1991 on small businesses (Trade Licence Law) by means of which it is forbidden to trade, mediate trade, import, export, acquire or transport nuclear, chemical biological weapons and related components.

- Application of Act 26/2002 on the control of imports, exports and brokering activities relating to goods and technologies subject to international control regimes in every case of export of dual-use items. Granting a licence for export, import or transit of nuclear material is subject to appropriate route charting by the Nuclear Regulatory Authority (UJD) along which material is to be transported.

- All nuclear activities and nuclear material in Slovakia are subject to the IAEA full-scope safeguards in accordance with the safeguard Agreement.

- The goal of regulatory activity in the field of nuclear materials management is to ensure that nuclear materials are used in accordance with UJD permits which are issued only to those applicants who have proved their capability to use the nuclear materials, in accordance with legal regulations and commitments of Slovakia. The applicant must ensure in particular that nuclear materials are not diverted to nuclear weapons production or to other activities which are in contradiction with the international commitments, and that the environment and public health are not affected. UJD performs inspections in order to ensure fulfilment of a permit issued.

- The State System of Accounting for and Control of Nuclear Materials (SSAC) is based on requirements resulting from the Safeguards Agreement between the IAEA and the Slovak Government. UJD performs this activity on the basis of the "Atomic Act" and a relevant decree. The purpose of the SSAC is, *inter alia*, to prevent unauthorised nuclear materials management, to detect loses of nuclear materials, and to provide information that could lead to recovery of missing material. The regulatory activity in the field of the accounting for and control of nuclear materials also includes review and processing of the reports of any nuclear material inventory change sent to the UJD by nuclear material users, elaboration and submission of advance notifications, special and accountancy reports for the IAEA.

(b) Develop and maintain appropriate effective physical protection measures;

- The physical protection of nuclear facilities and nuclear materials consists of a protection system and a set of technical tools and organisational measures with the objective to prevent unauthorised use of nuclear facilities, nuclear materials, special and sensitive materials and equipment.

- In this field, UJD has streamlined its oversight activities on the control of performance of the AKOBOJE (Automated System of Nuclear Power Plant Security) physical protection system and of the level of performance of the protection regime at Slovakia nuclear power plants.

- In 2003, there were no events of illicit trafficking of nuclear or other radioactive material in Slovakia.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- Adoption of a whole range of measures to strengthen border control of sensitive materials, including their physical security with the main emphasis on meeting new requirements connected with Slovakia becoming a member of the EU responsible for actively securing a part of the external border of the Union.

- Practical measures are applied at border crossings that include *inter alia*, the employment of carry-on pagers for detection of radioactive substances and a portable x-ray for checking railway carriages for radioactive emissions.

- A specialised bureau was set up at Bratislava International Airport by the customs hazardous materials and drug enforcement unit in 2003, and reinforced in 2004 with its staff increased to 13. The responsibilities of the bureau include combat against weapons and hazardous materials trafficking. The bureau's inspection activities target especially flights arriving from sensitive regions. The establishment of a similar bureau is envisaged for the International Airport in Košice.

- Keeping up with new trends and experience exchange through participation in training courses and international workshops. In 2004, a three-week training course for customs officers in the United States took place. The focus of the training course was on combat against illegal trafficking of narcotics, weapons and hazardous materials and on detection of nuclear, chemical and toxin (biological) weapons and related materials and technologies. Sixteen customs officers from Slovakia took part in the course.

- Conclusion of memoranda on co-operation between the customs authorities and technical research institutes in 2004. The memoranda provide for an important tool in identifying, specifying and categorising of various potential dual-use commodities.

- European Community Customs Code (EC 2913/92). Powers to examine goods and take samples for the purpose of verifying customs declaration.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations.

- Rules for export, import, transfer and brokering activities for trading in sensitive goods stipulated in the following enactments: Act 26/2002 laying down the conditions for control of imports, exports and brokering activities relating to goods and technologies subject to international control regimes, Act 179/1998 on trading in military materials, EC dual-use items Regulation (EC) 1334/2000, Community Customs Code (EC Regulation 2913/92).

- A number of penalties for violation of export prohibitions and restrictions with regard to sensitive items are in place. Penalties vary depending on the gravity of offence. They may include a fine of up to 10 000 000 SKK, forfeiture of controlled goods and even imprisonment of up to eight years.

OP5

Decides that none of the obligations set forth in this regulation shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the

responsibilities of the International Atomic Energy Agency or the Organisation for the Prohibition of Chemical Weapons

- Slovakia is a party to all major multilateral non-proliferation instruments: the NPT, the CWC, the BWC and the CTBT, and actively observes responsibilities stemming out from membership in the IAEA and the OPCW. Slovakia supports further strengthening of the implementation of the BWC by the State Parties.

- Slovakia supports implementation of the conclusions of the 2000 NPT RC and submits annual declarations called for in the 2000 Final Document. Slovakia has been active within the framework of the CTBT, especially through hosting of on-site inspections preparation activities.

OP6

Recognises the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

- Meeting in full the requirements arising from Slovakia's membership in the export control regimes (AG, WA, NSG), including the implementation of control lists maintained by the regimes.

- Actively seeking membership in the MTCR whose guidelines Slovakia undertook to apply on a voluntary basis.

- Preparation of the publication of a national list of military material which will be fully compatible with the EU list.

OP7

Recognises that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

- At present, the Slovak authorities encounter no substantial difficulties with implementing the provisions of UNSC resolution 1540 (2004).

- We are prepared to consider any specific request from States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of the resolution.

- Up to now, the main bulk of our assistance activities in the field of non-proliferation have been provided through relevant international institutions such as the IAEA and the OPCW. These activities have also included our regular participation in the IAEA regional technical project dedicated to assist Member States in combating the illicit trafficking of nuclear and other radioactive materials. In the chemical field, we have been active in organising of various international training courses under the auspices of the OPCW.

OP8
Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, chemical or biological weapons;

- EU Common Position (2003) on the universalisation of the main multilateral non-proliferation agreements: CWC, BWC, NPT.

- IAEA Additional Protocols as a condition of supply: EU lobbying for universalisation of CSA and Additional Protocol.

- Model "non-proliferation clause" to be introduced in EU mixed agreements with third countries.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

- Act 26/2002 laying down the conditions for control of imports, exports and brokering activities relating to goods and technologies subject to international control regimes.

- Act 179/1998 on trading in military materials.

- Act 129/1998 on the prohibition of chemical weapons.

- Act 130/1998 on peaceful uses of nuclear Energy ("Atomic Act").

- Legislative steps underway to establish a national BWC implementation office.

- Planned preparation of a new act replacing Act 26/2002 in order to reflect new legislative conditions after Slovakia's entry into the EU.

(c) To renew and fulfil their commitment to multilateral co-operation, in particular within the framework of the International Atomic Energy Agency, the Organisation for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international co-operation for peaceful purposes;

- Slovakia provides full support for the IAEA whose mandate we consider to be of central importance in attaining non-proliferation goals. The continued commitment to the Agency has also been reflected in Slovakia's repeated election to the Board of Governors.

- Slovakia continues to support the aims and activities of the OPCW, both as an active state party and a member of the Executive Council. Our commitment has been shown especially in organizing of various international training courses under the auspices of the OPCW.

- Conclusion of the Agreement between the Slovak Republic and the OPCW on the Privileges and Immunities of the OPCW.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

- Relationship with industry through individual consultations.
- Continued development of measures seeking promotion of more action-oriented approach to industry and the public.
- Information dissemination via Slovak Government websites and publications.
- Where feasible, conclusion of MOU's between relevant state agencies and representatives of industry.
- EU Strategy against proliferation of WMD.

OP9

Calls upon all States to promote dialogue and co-operation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical or biological weapons, and their means of delivery;

- Slovakia actively participates in dialogue and co-operation on non-proliferation, both within the EU and wider multilateral fora.

OP10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take co-operative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials.

- Support to the Proliferation Security Initiative (PSI). Currently examining national capacities for more active involvement.